



Request for City Council Committee Action From the Departments of Public Works and Procurement

Date: November 8, 2012

To: Honorable Sandra Colvin Roy, Chair Transportation & Public Works Committee

Referral to: Honorable Betsy Hodges, Chair Ways and Means/Budget Committee

Subject: **Request to Amend Council Action / Contract C-35938 with OMNI-Midwest Inc. (O.P. #7644)**

Recommendation:

- A. To authorize the proper City officials to find OMNI-Midwest INC. in default of Contract C-35938 with the City of Minneapolis for anticipatory breach and failure to fulfill Contract C-35938; and
- B. To find pursuant to Chapter 8, Section 24, of the City of Minneapolis Charter, that OMNI Midwest, Inc., Gerald Roy and any officers of OMNI Midwest, Inc. shall not have any bid they submit considered by the City and no contract shall be awarded by the City, unless the current default by OMNI Midwest, Inc. is remedied or cured to the satisfaction of the City.

Previous Directives:

- On July 20th, 2012 Resolution 2012R-401 the City Council approved the acceptance of the low bid from OMNI Midwest Construction Company in an amount of \$78,750.00.

Prepared by: Buick Alavy, PE, Water Treatment and Distribution Services

Approved by:

Steven A. Kotke, P.E., City Engineer, Director of Public Works

Presenter: Rob Verke

Financial Impact (Check those that apply)

- | |
|---|
| <p><input checked="" type="checkbox"/> No financial impact - or - Action is within current department budget.
(If checked, go directly to Background/Supporting Information)</p> <p><input type="checkbox"/> Action requires an appropriation increase to the Capital Budget</p> <p><input type="checkbox"/> Action requires an appropriation increase to the Operating Budget</p> <p><input type="checkbox"/> Action provides increased revenue for appropriation increase</p> <p><input type="checkbox"/> Action requires use of contingency or reserves</p> <p><input type="checkbox"/> Other financial impact (Explain):</p> <p><input type="checkbox"/> Request provided to the Budget Office when provided to the Committee Coordinator</p> |
|---|

Background/Supporting Information:

OMNI Midwest Construction Company Inc. was awarded a contract to repair a concrete slab over an activated carbon storage tank at the Fridley Softening Plant for Minneapolis Water

Treatment and Distribution Services (WTDS) Division of Public Works. The City of Minneapolis issued Contract # C-35938 for the amount of \$78,750.00 to perform this work. OMNI-Midwest Inc. received, signed and returned the contract to the City. The City executed and entered the contract into COMPASS on August 29, 2012.

OMNI-Midwest Inc. representatives attended a Pre-Construction meeting on 8-15-2012 with the WTDS project manager, but OMNI-Midwest Inc. did not submit a work schedule, starting and completion dates and did not attend the scheduled Right- to- Know training.

After repeated requests and attempts by WTDS project management staff to coordinate and schedule this work with no response from OMNI-Midwest Inc., WTDS staff met with City procurement and City attorney's staff to discuss methods to compel Omni Midwest to complete their contracted work and what sanctions the City may impose against OMNI-Midwest, Inc. and its officers and directors pursuant to Chapter 8, Section 24 of the City of Minneapolis Charter (Contracts Not To Be Awarded To Persons In Default)..

Subsequent to this discussion, the City sent a letter to OMNI Midwest and their surety, Western Surety Company on September 26, 2012 requesting a meeting to resolve the non-performance issues of this contract. The letter to OMNI-Midwest was returned and was labeled "PO Box Closed, Unable to Forward, Return to sender".

We will pursue repairs to this tank subsequent to this action.

Attachments - None

cc: Gary Winter, Dave Schlueter, Rob Verke, Shahin Rezania.